

IN THE DISTRICT COURT FOR SCOTTS BLUFF COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 JIM MACY , Director)
 NEBRASKA DEPARTMENT OF)
 ENVIRONMENTAL QUALITY,)
)
 Plaintiff,)
 v.)
 SCHIFF FARMS, INC.)
)
 Defendant.)

Case No. CI-15-577

CONSENT DECREE

COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through his Counsel, Douglas J. Peterson, Attorney General, and Defendant, Schiff Farms, Inc., and each party having consented to the making and entering of this Consent Decree without trial, request the entry of this Consent Decree.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction of the parties and the subject matter of this action pursuant to the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014), and all rules, regulations, and orders promulgated thereunder.
2. In the Complaint, the Plaintiff alleged that the Defendant disposed of solid waste at a location other than a permitted solid waste management facility and caused or allowed an open fire, in violation of the Environmental Protection Act and certain rules and regulations adopted and promulgated pursuant to the Act.
3. The parties agree that settlement of this matter is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving their dispute. The parties



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FILED Sept 8 20 15

Ann Rosenberry
CLERK OF THE DIST COURT

BY *Scott Carter* DEPUTY

desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendant, with respect to such issues.

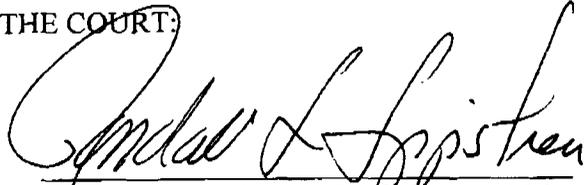
4. This Consent Decree shall be in full satisfaction of all claims alleged in the Plaintiff's Complaint.
5. IT IS THEREFORE ORDERED that the Defendant shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), in the amount of eight thousand dollars (\$8,000.00) as well as court costs in the amount of eighty two dollars (\$82.00), to the District Court for Scotts Bluff County, Nebraska. The civil penalty shall be handled as provided by Article VII, Section V, of the Constitution of the State of Nebraska.
 - a. Four thousand dollars (\$4,000.00) of the civil penalty shall be paid within thirty (30) days of the entry of this Consent Decree and is payable to the Clerk of this Court.
 - b. Four thousand dollars (\$4,000.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree. However, if the Defendant maintains compliance with the provisions of the Environmental Protection Act and the rules or regulations adopted pursuant to the Act during the one hundred and eighty (180) days following the entry of this Consent Decree, payment of this four thousand dollars (\$4,000.00) in civil penalties shall be waived.
 - c. The Defendant shall file with the Court and serve upon the Plaintiff a Showing within fifteen (15) days prior to the due date of the civil penalties under Paragraph

5(b). The Showing must certify that the Defendant has maintained compliance with all requirements listed in Paragraph 5(b).

- d. The Plaintiff shall file a Satisfaction of Judgment within ten (10) days of receipt of the Defendant's Showing. However, if the Defendant violates the requirements in Paragraph 5(b) during the one hundred and eighty (180) days following the entry of this Consent Decree, the Plaintiff, in its sole discretion, may file an Objection to the Defendant's Showing. If the Plaintiff files such an Objection, the determination of this waiver provision shall be stayed pending ongoing enforcement proceedings.
6. This Consent Decree shall have no effect on any enforcement action brought by NDEQ against the Defendant for future violations of any statutes or regulations.
7. The undersigned consent without further notice to the form and entry of this Consent Decree.

DATED THIS 8 day of Sept, 2015, in Scotts Bluff County, Nebraska.

BY THE COURT:



District Judge of Scotts Bluff County, Nebraska

STATE OF NEBRASKA, ex rel.,
JIM MACY, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By DOUGLAS J. PETERSON, #18146
Attorney General

By: 

Emily K. Rose, #25145
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-1813
emily.rose@nebraska.gov

Attorneys for Plaintiff

SCHIFF FARMS, INC.,
Defendant

By: 

Scott Schiff
Vice President

Defendant

CERTIFICATE OF SERVICE

I, the undersigned, certify that on September 8, 2015, I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Emily K Rose
emily.rose@nebraska.gov



Date: September 8, 2015 BY THE COURT:

Ann Rosenberry
CLERK